

A BILL

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To amend, on a temporary basis, the Fair Meals Delivery Act of 2022; to restrict third-party meal delivery services from reducing a restaurant's placement within a given list of restaurants on a third-party food delivery platform based on the level or percentage of commissions paid, to restrict third-party meal delivery services from reducing a restaurant's delivery radius based on the level or percentage of commissions paid, to restrict third-party meal delivery services from limiting driver availability based on the level or percentage of commissions paid, to require third-party meal delivery services to disclose, in plain language, all fees, commissions, and charges related to contracted services for covered restaurants, and to make other clarifying changes.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Food Delivery Fees Transparency Temporary Amendment Act of 2023".

Sec. 2. The Fair Meals Delivery Act of 2022, effective March 10, 2023 (D.C. Law 24-292; D.C. Official Code § 48-651 *et seq.*), is amended as follows:

(a) The long title is amended by striking the word "platform" wherever it appears and inserting the word "service" in its place.

(b) Section 2 (D.C. Official Code § 48-651) is amended as follows:

(1) Paragraph (1) is amended by striking the word "platform" and inserting the word "service" in its place.

(2) Paragraph (2) is amended to read as follows:

37 “(2) “Core delivery service” means a service that lists a restaurant and makes the  
38 restaurant discoverable on all third-party meal delivery platforms where a third-party meal delivery  
39 service lists restaurants and facilitates or performs the delivery through employees or independent  
40 contractors of the third-party meal delivery service of food or beverages from restaurants to  
41 customers. The term “core delivery service” does not include any other service that may be  
42 provided by a third-party meal delivery service to a restaurant, including advertising or other  
43 promotional services, search engine optimization, business consulting, or credit card processing.”.

44 (A) ~~Strike the phrase “modalities or platforms offered by a third party meal~~  
45 ~~delivery platform, including any website, mobile application, or other internet service” and insert~~  
46 ~~the phrase “third party meal delivery platforms” in its place.~~

47 (B) ~~Strike the phrase “platform lists” and insert the phrase “service lists” in~~  
48 ~~its place.~~

49 (C) ~~Strike the phrase “platform of” and insert the phrase “service of” in its~~  
50 ~~place.~~

51 (D) ~~Strike the phrase “platform to” and insert the phrase “service to” in its~~  
52 ~~place.~~

53 (3) ~~A N~~New paragraphs (2A) and (2B) are is added to read as follows:

54 “(2A) “Covered restaurant” means a restaurant that elects to receive only core  
55 delivery service.”.

56 “(2B) “Delivery radius” means the circular delivery area from around a restaurant  
57 within which customers can search for and order from a restaurant.”.

58 (4) Paragraph (6) is amended by striking the phrase “by, and same-day delivery,  
59 and the” and inserting the phrase “by, and provides the” in its place.

60                   (5) A new paragraph (6A) is added to read as follows:

61                   “(6A) “Third-party meal delivery service” means a person that operates a third-  
62 party meal delivery platform.”.

63                   (c) Section 3 (D.C. Official Code § 48-652) is amended as follows:

64                   (1) The section heading is amended by striking the phrase “meals delivery  
65 platforms” and inserting the phrase ”meal delivery services” in its place.

66                   (2) Subsection (a) is amended by striking the word “platform” both times it appears  
67 and inserting the word “service” in its place.

68                   (3) Subsection (b) is amended by striking the word “platform” both times it appears  
69 and inserting the word “service” in its place.

70                   (4) Subsection (c) is amended as follows:

71                   (A) Paragraph (1) is amended by striking the word “platform” and inserting  
72 the word “service” in its place.

73                   (B) Paragraph (2) is amended by striking the word “platform” and inserting  
74 the word “service” in its place.

75                   (5) Subsection (d) is amended by striking the phrase “platform that” and inserting  
76 the phrase “service that” in its place.

77                   (6) ~~A new subsections~~ (e), (f), and (g) are added to read as follows:

78                   “(e) A third-party meal delivery service shall not reduce the placement of a covered  
79 restaurant, in any page, list, or search results in which the covered restaurant is included, relative  
80 to other restaurants, based on the level or percentage of commissions paid; provided, that this  
81 subsection shall not be construed to restrict a third-party meal delivery service’s ability to use any  
82 method (that does not conflict with the restrictions in this subsection or any other applicable law)

to determine the displaying and ordering of restaurants on a third-party meal delivery platform, including:

“(1) Offering preferential listing to restaurants that pay for advertising or other promotional services;

“(2) Displaying restaurants based on a particular customer’s search or purchase history, proximity to a customer’s location, or other similar factors; and

“(3) Relying on an algorithm to implement paragraph (1) or (2) of this subsection.”.

“(f) A third-party meal delivery service shall not reduce the delivery radius of a covered restaurant below 5 miles, based on the level or percentage of commissions paid.

“(g) A third-party meal delivery service shall not reduce the availability of delivery drivers provided to a covered restaurant, based on the level or percentage of commissions paid; provided, that this subsection shall not be construed to restrict a third-party meal delivery service’s ability to use any method (that does not conflict with the restrictions in this subsection or any other applicable law) to offer expedited or priority driver services to a covered restaurant that pays for such services on a third-party meal delivery platform.”.

(d) ~~The lead-in language~~ of Section 4 (D.C. Official Code § 48-653) is amended as follows:

(1) Strike the phrase “, the third-party meal delivery platform” and insert the phrase “, the third-party meal delivery service” in its place.

(2) Strike the phrase “platform (“charges”)” and ~~inserting~~ the phrase “service (“charges”)” in its place.

(e) A new section 4a is added to read as follows:

“Sec. 4a. Restaurant disclosure requirement.

“A third-party meal delivery service shall:

106                   “(1) Disclose to a covered restaurant, in plain language, the fees, commissions, and  
107 charges associated with the contracted services in the agreement; and

108                   “(2) Maintain all contracts with covered restaurants in its records for 3 years after  
109 the date the agreement is executed.”.

110           (f) Section 5 (D.C. Official Code § 48-654) is amended as follows:

111                   (1) Subsection (a) is amended as follows:

112                           (A) Strike the phrase “third-party meal delivery platform” both times it  
113 appears and insert the phrase “third-party meal delivery service” in its place.

114                           (B) Strike the phrase “platform does” and inserting the phrase “third-party  
115 meal delivery service does” in its place.

116                   (2) Subsection (b) is amended as follows:

117                           (A) The lead-in language is amended by striking the word “platform” and  
118 inserting the word “service” in its place.

119                           (B) Paragraph (2) is amended by striking the word “platform” and inserting  
120 the word “service” in its place.

121           (g) Section 6 (D.C. Official Code § 48-655) is amended to read as follows:

122                   “Sec. 6. Third-party delivery platform; registration requirement.

123                   “A third-party food delivery service operating in the District shall register with the  
124 Department of Licensing and Consumer Protection.”.

125                   ~~(1) The section heading is amended by striking the word “platform” and inserting~~  
126 ~~the word “service” in its place.~~

(2) ~~Strike the phrase “A person, corporation, partnership, or association operating a third party food delivery platform in the District of Columbia” and insert the phrase “A third party food delivery service operating in the District” in its place.~~

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 4. Effective date.

(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

(b) This act shall expire after 225 days of its having effect.